



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/096,483 06/10/98 SCHWARTZ

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QM12/1023

EXAMINER

FRIDIE JR, W

ART UNIT

PAPER NUMBER

3722

DATE MAILED:

10/23/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/096483

Applicant(s)

Schwanitz

Examiner

Fridie

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11/18/98
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other:

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## **DETAILED ACTION**

### ***Reissue Applications***

1. A proper assent of the assignee in compliance with 37 CFR 1.172 and 3.73 is required in reply to this Office action. On applicant's submitted statement under 37 CFR 3.73 (b), applicant has checked the boxes that state that additional documents and copies are attached, however no such papers are in the file.
2. An appropriate paper satisfying the requirements of 37 CFR 3.73 must be submitted in reply to this Office action.
3. Applicant is reminded of the continuing obligation under 37 CFR 1.56 to timely apprise the Office of any litigation information, or other prior or concurrent proceeding, involving Patent No. 5,524,998 , which is material to patentability of the claims under consideration in this reissue application. This obligation rests with each individual associated with the filing and prosecution of this application for reissue. See MPEP §§ 1404, 1442.01 and 1442.04.
4. Applicant is required to rewrite the amended claims on a separate sheet of paper incorporating all of the proposed changes.

Also applicant should rewrite the amended section of column thirteen of the specification on a separate page.

5. The reissue oath/declaration filed with this application is defective because it fails to contain a statement that all errors which are being corrected in the reissue application up to the

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time of filing of the oath/declaration arose without any deceptive intention on the part of the applicant. See 37 CFR 1.175 and MPEP § 1414.

6. The reissue oath/declaration filed with this application is defective because it fails to contain the statement required under 37 CFR 1.175(a)(1) as to applicant's belief that the original patent is wholly or partly inoperative or invalid. See 37 CFR 1.175(a)(1) and see MPEP § 1414.

7. The reissue oath/declaration filed with this application is defective (see 37 CFR 1.175 and MPEP § 1414) because of the following:

a) the oath or declaration must identify each inventor by full name, country of citizenship as required by 35 U.S.C. 115 and 37 CFR 1.63(a)(3). Each inventor's residence and mailing address must also be provided.

b) the oath or declaration must state whether the inventor is a sole or joint inventor of the claimed invention 37CFR 1.63(a)(4)

c) the oath or declaration must state that the person signing has reviewed and understands the contents of the specification, including the claims as amended by any amendment specifically referred to in the oath or declaration. 37 CFR 1.63(b)(1)

d) the oath or declaration states that the person signing acknowledges the named inventor or inventors to be the original first inventor or inventors of the subject matter which is claimed and for which a patent is sought 37CFR 1.63(b)(2)

e) it was unclear as to whether the typed section of the declaration was a part of the pre-printed page.

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8. Claims 1-42 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

### *Conclusion*

Included in the attachments is a standard copy of a reissue oath. If applicant chooses to use it, the back side of page one can accommodate extra information.

In order to reduce pendency and avoid potential delays, Group 3700 is encouraging FAXing of responses to Office actions directly into the Group at (703)305-3579. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3700 will be promptly forward to the examiner.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to W. Fridie, jr. whose telephone number is (703) 308-1866.

wf

October 19, 2001

  
WILLMON FRIDIE, JR.  
PRIMARY EXAMINER  
GROUP 3200